

HE
2791
N89
1911

NORTHERN PACIFIC
RAILWAY CO.

RULES

BANCROFT

The Bancroft Library

University of California • Berkeley



Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

2522 ✓

Northern Pacific Railway Co.

RULES

Governing the Protection and
Occupancy of Right of Way
and Other Operating Property.

Land Department

ST. PAUL, MINN.

JULY 1st, 1911

THE BANCROFT LIBRARY

HE279

N89

1911

RULES

Governing the Protection and Occupancy of Right of Way and Other Operating Property of the Northern Pacific Railway Company.

1. The Land Commissioner is the custodian of all records of title and occupancy, and will give advice and instructions in reference thereto; he will furnish Superintendents with right of way and station plats, and Agents with station plats, showing the property of the Company.

2. Division Superintendents are responsible that no unauthorized occupancy of the right of way or other operating property of the company is permitted on their division, and they in turn will hold agents responsible at stations, and roadmasters between stations.

ENCROACHMENTS.

3. The general rule will be followed of assuming any occupancy, either public or private, of any portion of the Company's property to be hostile, unless such occupancy has been regularly authorized. All occupancies of any character not authorized by a lease will be deemed encroachments and must be immediately investigated by the person who is charged with the care of the property, and reported to the Division Superintendent. The person making such investigation should make careful measurements to determine the extent of the encroachment and prepare a description, illustrated by a sketch if necessary, so that the encroachment can be readily located on the station plat or profile.

4. Every case of encroachment, no matter how trivial, must be reported and care taken to give full and complete information. The encroacher should be interviewed and information obtained from him, and also from others if it appears necessary, as to how long he has encroached on the Company's property, whether or not the encroachment has been continu-

ous and the reasons therefor. If he claims title to the property full information as to the basis of his claim should be obtained and reported. If he professes to be willing to vacate the property he should set a definite period within which he will do so, which period should be stated in the report.

5. If the encroacher is willing to lease the property encroached upon that fact should be stated in the report and the person making the report should give his recommendation as to the advisability of granting the lease.

6. Employees charged with the duty of protecting the Company's property from encroachments should thoroughly familiarize themselves with the boundary lines and wherever there is any doubt as to whether an encroachment exists actual measurements should be made.

LEASES.

7. The word "leases" as used herein includes all forms of authorization of occupancy of any portion of the right of way or other property of the Company, excepting railroad crossing agreements. All applications for leases will, after approval by the proper officers as hereinafter set forth, be transmitted to the Land Commissioner, who will prepare the leases, attend to their execution and delivery, make proper record of the transaction, and notify interested departments.

8. No leases will be granted for saloons, or for gambling houses, or other immoral purposes; nor as a general rule for retail stores, dwelling houses, hotels, boarding houses, or manufacturing purposes; nor for purposes that will be unusually unsightly or otherwise offensive or dangerous; nor for buildings to be erected within 100 feet of a depot, warehouse, section house or other important structure of the Company; nor for purposes that will constitute an extraordinary fire risk to the property of the Company or its lessees; nor should leases be recommended for the erection of structures that will increase operating danger by obstructing the view, or where the property is likely to be required for railroad purposes within a reasonable time. The standard clearance limits must be strictly observed in any structures erected upon property leased. Safety of operation is paramount to all other considerations, and no occupancy should be permitted which is a menace thereto.

LEASE APPLICATIONS.

9. Officers passing upon lease applications should consider the traffic and other benefits that will result; the amount of space available for lease at that point; how the applicant will be served by trackage if such is desired, and whether the lease is objectionable for any of the reasons given in paragraph 8 hereof.

10. All lease applications for occupancy of any character at stations, excepting for grain warehouses and elevators (for which a special form R. W. 114 is printed) should be made on form R. W. 113 by the local agent, or general agent if there is one, and by him forwarded with his recommendation to the Division Superintendent, thereafter to be transmitted in the order hereinafter prescribed.

11. Applications for occupancy between stations or at stations where there are no agents should as a rule be prepared by roadmasters on the same form as are used by agents and forwarded in the same manner.

12. Care must be exercised in filling out applications, whether on printed form or otherwise, to give full and complete information, so that if granted it will not be necessary to write for additional information in order to prepare the lease. Particular points to be covered:

(a) Full name and post office address of applicant, if a partnership the individual names of the partners and also the firm name should be given; if a corporation the corporate name of the Company and the name of the State under the laws of which it is incorporated should be stated as well as the post office address of its headquarters.

(b) Business of applicant.

(c) Traffic considerations, if any.

(d) Character and dimensions of structure to be erected, if any, and estimated cost.

(e) Full description of land desired, illustrated by sketch if necessary. If sketch is made actual measurements and points of compass should be shown. This is important and the utmost care should be exercised in making the description and sketch clear and comprehensive.

(f) Rental recommended.

(g) Applications for electric light and power lines must state voltage to be carried.

(h) All applications will be assumed to be for indefinite term leases subject to cancellation on short notice unless it is specifically stated in the application that a long term lease is desired.

13. Superintendents will be furnished with a set of the printed forms of leases used by the Company and from the same can advise themselves of the terms and conditions upon which the different forms of occupancy are permitted. A list of these forms and the manner of handling applications follows:

14. **Indefinite Term Lease (Form R. W. 1).** This is the form of lease generally granted for occupancy for industrial, commercial, or other purposes at stations, such as lumber or fuel yards, coal sheds, platforms, scales, dwelling houses, warehouses, storage room or any other occupancy for which no special form is provided, and can be terminated by either party upon 30 days' notice. Applications should be forwarded by the Superintendent to the Engineer Maintenance of Way if the erection of any structures are contemplated, and where traffic considerations are involved, should be forwarded by the Engineer Maintenance of Way to the General Western Freight Agent, if in his territory, or to the General Freight Agent, Saint Paul, if in the Eastern traffic district. When passed upon by the proper Freight Agent, the application with all accompanying correspondence will be sent to the Land Commissioner. The Superintendents or Freight Agents may, if they desire, consult their superior officers before passing upon any applications.

15. Applications for occupancy of such character that no traffic considerations or engineering questions are involved, and which are not covered by others of these rules, and which if granted should be on the Indefinite Term lease form, will be forwarded direct by the Superintendent to the Land Commissioner.

16. **Long Term Lease (Form R. W. 2).** This form of lease is granted only at important stations and only in cases where expensive and permanent structures are to be erected, and should not be recommended unless conditions warrant and it is reasonably sure that the premises will not be required for railroad purposes during the term for which lease is desired. Unusual care must be exercised by all officers passing upon

long term lease applications and there must be decided traffic advantages to warrant favorable recommendation. Application should state the term of years for which lease is desired (no leases are made for over 25 years) and in addition to the information required for ordinary leases the value of the land should be given. Long term lease applications will be forwarded in the order indicated below:

Eastern District.

Superintendent
General Superintendent
Engineer Main. of Way
General Freight Agent
Traffic Manager
Second Vice President
General Manager
Third Vice President
Land Commissioner

Western District.

Superintendent
General Superintendent
Engineer Main. of Way
Gen. Western Freight Agent
General Manager
Traffic Manager
Second Vice President
Third Vice President
Land Commissioner

If recommended by all concerned, the Land Commissioner will prepare the lease and submit the same to the President for approval.

**17: Grain Elevator Lease (Form R. W. 3).
Grain Warehouse Lease (Form R. W. 4).**

Applications for warehouse or elevator sites should be made on the regular printed form (R. W. 114) carefully filled out by the applicant and the Agent, or General Agent if at a station where there is one, and then forwarded to the Superintendent, thence to the Engineer Maintenance of Way, who will forward to the General Western Freight Agent at Tacoma, if in his district, or to the General Freight Agent at Saint Paul, if in the Eastern traffic district, then submitted to the Second Vice President. When passed upon by the latter, the application with all accompanying correspondence will be sent to the Land Commissioner.

18. Cultivation or Pasturage License (Form R. W. 6).

This is the form used permitting cultivation or pasturage of portions of the right of way between stations. No leases of this character are issued at stations. Applications should be forwarded by the Roadmaster to the Superintendent, and if approved by him, transmitted to the Land Commissioner.

19. Tenement Lease (Form R. W. 7). This form is used

to cover leases of dwelling houses and rooms in buildings owned by the Company at a few points not handled under special instructions. Applications, after approval by the Superintendent, will be forwarded direct to the Land Commissioner. Care should be taken to secure desirable tenants, and employees of the Company should be given preference.

20. Public and Private Utilities. Under this general heading is included highways, public or private; drainage or irrigation canals; water pipes; sewers; electric lines; and other like purposes, where occupation of the property of the Company, either crossing or longitudinal is necessary or desirable. The general rule is that longitudinal occupation of any character, and crossings where the right of condemnation does not exist, being optional with the Company to grant, are made terminable upon short notice; crossings where the right of condemnation exists are made perpetual.

The following are the printed forms of leases, for this class of occupancy, with the terms of which Superintendents and their subordinates should familiarize themselves:

Highway Easement (Form R. W. 12).

This covers longitudinal occupation only, and no highway should be permitted longitudinally upon the right of way until covered by a lease of this character. There are no printed forms for highway crossings, public or private, but special forms in such cases will be typewritten. Applications for highways, either longitudinal or crossings, should be made by the proper authorities to the Superintendent, then forwarded through the General Superintendent to the General Manager and the latter will pass the same to the Land Commissioner with his approval or disapproval.

Irrigation Canals, Drainage Canals, Water and Sewer Pipes. (Perpetual Form R. W. 16.) (Temporary Form R. W. 17.)

The perpetual form covers crossings where the right of condemnation exists; the temporary form all other occupancy permitted. The two forms are identical except that the temporary form contains the provision for cancellation; no rental charge is made for this class of occupation. Application should be made to the Superintendent, accompanied by a sketch and plan of any structure it is proposed to place upon

the right of way, then forwarded through the Division Engineer and General Superintendent to the General Manager, who will pass the papers to the Land Commissioner with his approval or disapproval. If the application involves putting structures in the road bed, it will be referred to the Engineer Maintenance of Way by the General Superintendent before presentation to the General Manager.

Electric Lines. For convenience these are classified: Overhead Crossings, Low voltage (500 volts or less), Form R. W. 29. Longitudinal, Low voltage (500 volts or less), Form R. W. 30. Overhead Crossings, High voltage (exceeding 500 volts), Form R. W. 28. Under Crossings, High voltage (exceeding 500 volts), no printed form.

Crossing leases are perpetual; longitudinal leases terminable on short notice. Wherever practicable, high voltage crossings will be made in conduits under the road bed, otherwise overhead under the standard form of construction approved by the Company. High voltage longitudinal occupancy is not permitted upon the right of way. Application for electric line leases should be made to the Superintendent, then forwarded through the Superintendent of Telegraph and General Superintendent to the General Manager, who will pass the papers to the Land Commissioner with his approval or disapproval. To save time electric line applications in the western district will be passed upon by the Superintendent of Telegraph after the papers are approved by the General Manager and then forwarded to the Land Commissioner.

Applications for occupancy of a character similar to those specifically mentioned in this rule, will be handled in like manner.

LEASE ASSIGNMENTS.

21. Lease assignments are not valid unless the written consent of the Company has first been obtained and all unauthorized assignments must be reported as soon as discovered. If a tenant desires to assign his lease the assignment form on the back of the lease must be properly filled out and by him executed as well as by the assignee and the lease surrendered to the local agent, or roadmaster, and forwarded to the Division Superintendent for approval.

22. All assignments of temporary leases where no traffic is involved, after approval by the Superintendent, will be for-

warded to the Land Commissioner for approval on behalf of the Company. If traffic is involved the Superintendent will forward to the General Freight Agent if in the eastern traffic district, or to the General Western Freight Agent if in the latter's territory, thereafter to be submitted to the Land Commissioner. Assignments of long term leases will be passed upon by the second Vice President in addition to the officers passing on assignments of temporary leases.

APPLICATIONS FOR LEASE EXTENSIONS OR RENEWALS.

23. As leases expire from time to time the Land Commissioner will send out renewal blanks on printed form R. W. 117 to the agent, or General Agent where there is one, for renewal of leases at stations and to the Division Superintendent if leases are between stations or at stations where there are no agents, who in turn will refer the same to the Roadmaster for investigation. When the renewal blank is received by the agent or Roadmaster it should be properly filled out and forwarded to the Division Superintendent. An investigation should be made on the ground to determine if the terms of the lease have been complied with as to the extent of the occupancy or otherwise and any failure should be reported in the application for renewal.

24. If it is found that the former lessee has transferred his lease to another party and the latter is in possession of the premises without first having obtained the Company's approval to the transfer this fact should be stated in the application and the occupant will be considered as the applicant.

25. When a lease has expired and the lessee does not desire an extension or renewal it is the duty of the agent or roadmaster to see that occupancy is not continued and that all improvements, including fences, are promptly removed from the Company's property and the premises restored to their former state, reporting to the Land Commissioner when removal has been accomplished or any failure to remove such improvements within a reasonable time after a lease has expired or is cancelled. Subletting is strictly prohibited without the written approval of the Company and should be reported when discovered.

TAXES AND ASSESSMENTS.

26. Taxes and assessments in all cases will be paid by the lessees, except under cultivation and pasturage licenses and tenement leases.

RENTALS.

27. Except for extraordinary good reasons which must be set forth in the application or papers accompanying, rentals will in all cases be at the established schedule rate. At smaller stations the rental, as a rule, is based on track frontage. If the character of the occupancy is such that a large track frontage is necessary and a rental on track frontage basis is not warranted, or if the property is of considerable value and the rental on track frontage basis is inadequate, or if a long term lease is desired, an estimate of the actual market value of the property to be leased must be stated in the application.

28. It is customary for the Auditing Department to prepare bills for all outstanding lease rentals and the rentals, as a rule, should not be collected until the proper bill has been presented and under no circumstances should any rental be accepted on account of a lease which has expired or from anyone who is not authorized by lease to occupy the property of the Company.

29. In long term leases the rentals, as a rule, are subject to readjustment every five years, but temporary leases are subject to readjustment at any time and if it appears to the agent at any time that the rental is inadequate he should report to the Land Commissioner.

SCHEDULE OF RENTALS.

30. Elevators and Grain Warehouses. For track frontage not exceeding 150 feet, a minimum of \$10.00 per annum plus \$5.00 for each additional 50 feet.

Other Warehouses, Lumber Yards, etc.

(a) Minimum of \$10.00 per annum for first 50 feet of track frontage or fraction thereof; \$7.50 for second 50 feet; and \$5.00 for each 50 feet additional.

(b) Annual rental 6 per cent on value of ground with a minimum of \$10.00. To determine the valuation of ground, assume right of way has the same valuation as corresponding frontage of town lots opposite.

Note: Rule "b" to apply to long term leases, or at stations where the ground is of considerable value, and a rental

on trackage basis is inadequate, or when the character of the industry is such that a large amount of ground is necessary, making the rental on trackage basis greater than the industry warrants; also as a rule to dwelling houses, locations not requiring trackage, etc.

Cultivation or Pasturage. Fifty cents per acre per annum and upwards, depending upon the value of the land.

No rental is charged, as a rule, for loading platforms for transferring freight to and from cars; irrigation ditches; highways or electric line and pipe line crossings.

LEASE RECORDS.

31. Advice will be sent by the Land Commissioner to Superintendents of all leases made, renewed, assigned, modified or cancelled, which information should either be noted in pencil upon track profiles between stations and on station plats at stations or entered upon the lease record book, or both, so that Superintendents can at any time determine from their own records whether the occupancy of any portion of the Company's property has been properly authorized. Similar information will be furnished to Agents to be noted by them on their station plats, which should at all times be kept complete and up to date. Roadmaster will also be advised through their Superintendents of occupancies authorized between stations and should keep a record of such, either on their track profiles or in a pocket memorandum book kept for the purpose, or both. Lease advices should be carefully preserved and conveniently filed for reference separate from other correspondence. If plats become obliterated, lost or destroyed, new ones will be furnished upon application.

St. Paul, Minn. July 1st, 1911.

THOMAS COOPER,

Land Commissioner.

Approved:

J. M. HANNAFORD, Second Vice President.

GEORGE T. SLADE, Third Vice President.

